

# NATURAL RESOURCES BOARD AGENDA ITEM

**SUBJECT:** Briefing on commercial fisheries and their management

**FOR:** OCTOBER BOARD MEETING

**TO BE PRESENTED BY:** Michael Staggs and Thomas Hansen

**SUMMARY:**

This is an overview of commercial fishing management in Wisconsin. We will review our statutory authority, our understanding of legislative intent, the overriding NRB policy that guides the program, and the basic structure of our rules. We will highlight the basic management principles, including limited entry, individual transferable quotas, and harvest limits.

**RECOMMENDATION:** For information only; no NRB action recommended.

**LIST OF ATTACHED MATERIALS:**

- No  Fiscal Estimate Required
- No  Environmental Assessment or Impact Statement Required
- No  Background Memo

- Yes  Attached
- Yes  Attached
- Yes  Attached

**APPROVED:**

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Bureau Director, Michael D. Staggs

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Administrator, Todd Ambs

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Secretary, Matt Frank

10/09/08

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DATE: October 8, 2008

FILE REF: 3600

TO: Natural Resources Board

FROM: Matthew Frank, Secretary

SUBJECT: Briefing on Wisconsin Commercial Fisheries and their Management

During recent deliberations on proposed rule FH-13-08, revisions to NR 25 related to Great Lakes Commercial Fishing and Wholesale Fish Dealing, Natural Resources Board members requested additional background information on commercial fisheries in Wisconsin and their current management. Such information will be important to placing this and future rule proposals concerning commercial fishing in proper context.

The evolution and current status of commercial fisheries in Wisconsin actually is a relatively long and complex story, so we will provide this information to NRB members in a series of information activities starting with this general overview presentation at the October, 2008 meeting. We will also resume our more detailed annual commercial fishing briefings at one of the summer 2009 Board meetings. At that meeting we will also schedule a field tour of a relevant commercial fishing operation where Board members can interact directly with Department staff responsible for managing these fisheries and commercial operators themselves. In this memo I will also provide links to more detailed information.

**General Overview** Wisconsin currently manages commercial fisheries on both Great Lakes, the Winnebago system and the Mississippi River. There are only a couple commercial fisheries allowed on inland waters. The Department does allow the removal of detrimental fish by commercial operators if it is beneficial to management of the fisheries. There is also a commercial setline fishery for channel catfish on the Winnebago system. Not all species may be commercially harvested – generally game fish are not commercial species. All commercial fishers must obtain a license from the Department and follow the relevant regulations which always include reporting their catch. Regulations governing the commercial fisheries are found both in statutes and administrative code. Department fisheries staff collect survey information on the fish populations, compile catch reports and recommend appropriate regulations including catch limits. Department law enforcement staff are charged with enforcing the regulations. The Lake Michigan and Lake Superior Commercial Fishing Boards are charged by statutes to advise the Natural Resources Board on commercial fishing issues. On the Great Lakes, the Department cooperates with neighboring states and provinces on fisheries management issues through the Lake Michigan Committee and the Council of Lake Committees. There is also a tribal commercial fishery on Lake Superior which is regulated by the Bad River and Red Cliff tribes themselves and governed by terms of the current 10 year State-Tribal Lake Superior fishing agreement which was signed by all parties. On the Mississippi River the Department cooperates with bordering states and with the Upper Mississippi River Conservation Committee on management of the commercial and sport fisheries.

**Authority** Statutes specify that all fish in waters of the state belong to the state which is charged to regulate their use: *Section 29.01. Title to wild animals. (1) The legal title to, and the custody and protection of, all wild animals within this state is vested in the state for the purposes of regulating the enjoyment, use, disposition, and conservation of these wild animals.*

The Legislature defined some specific commercial uses of these trust resources in subchapter VI of Chapter 29 which include commercial fishing in outlying waters and the Mississippi Rivers. Broad Natural Resource Board policy regarding Great Lakes fisheries management is found in Administrative Code Chapter NR 1, which guides specific regulations developed by the Department and found in Chapter NR25.

**Types of Regulations** All aspects of commercial fishing are subject to appropriate regulations including:

- ✓ Species that can be caught
- ✓ Gear that can be used and how it can be fished
- ✓ The amount of gear that can be used and how long it can be fished
- ✓ The number of licenses that are issued
- ✓ Who is eligible to receive and retain a license
- ✓ The total number of fish that can be caught and how they are allocated to individual fishers
- ✓ Time periods when fishing is allowed
- ✓ The size of fish that can be harvested
- ✓ Areas that are open or closed to fishing
- ✓ Catch or effort reporting requirements

The specific regulations vary among fisheries depending on factors such as the health of the fish populations, demand for commercial fishing opportunity, conflicts with other users, and even sometimes tradition. It is also important to note that other states and jurisdictions often use different types of regulations for what might appear to be otherwise similar fisheries.

**Wisconsin Commercial Fisheries** Wisconsin commercial fisheries can be generally classified into the following groupings:

*“Open” Fishery* Any resident can get a license and engage in commercial fishing. Fees are based on the type and amount of gear, and catches are managed by season, size and daily bag limits. Catch reporting is required. This category currently includes our Mississippi River fisheries for catfish, shovelnose sturgeon and rough fish. Various gears are allowed including nets, traps and setlines. This was also the management system in place in the early years of Great Lakes fisheries. An “open” fishery will only work where the number of commercial fishers is very low relative to the available fish – in popular fisheries the number of fishers and their catch will quickly grow beyond what the fish population can safely support.

*“Racehorse” Fishery* The main feature of this fishery is that the Department sets a total allowable catch (TAC) for each commercial species and all of the licensed fishers “race” to catch what they can from the TAC before the overall limit is reached and the fishery is closed. In order to track progress toward the TAC, frequent catch reporting is required. There may also be gear, area, season or size limits in some “racehorse” fisheries. In Wisconsin, all of our “racehorse” fisheries have a fixed number of commercial fishermen, but that is not always the case in other jurisdictions where anyone with the wherewithal to get a license and gear can compete to catch a share of the TAC. Experience shows that this is an inefficient way to manage a commercial fishery resulting in uneven supply of fish to the wholesale market and resulting price swings, unpredictable success for individual fishers, incentives to underreport catches, and in some cases danger to fishers who may feel compelled to fish in unsafe conditions or lose out on fishing opportunities. Wisconsin has generally moved away from “racehorse” fisheries except that part of the Lake Michigan bloater chub quota is still made available on a first-come basis.

*Effort Limited Fishery* In this fishery, the commercial fishers are limited by the amount of fishing effort they can use and are allowed to keep whatever they catch. An effort limit might be a maximum length of gill net that can be fished during a season or a maximum number of trap nets. This system is used when it is difficult to enforce limits on the number of fish that can be caught, or when the agency does not have the resources to set an annual TAC. Again, fishers may also have gear, season, area or size limits that also apply. On Lake Superior we use a gill net effort limit system to control the harvest of lake trout and a trap net effort limit system to control the harvest of lake whitefish.

*Individually Transferable Quota (ITQ) Fishery* This is the most advanced commercial fishery management system and the one used for most of Wisconsin's important Great Lake fisheries. The first feature of this system is that the Department sets an overall TAC but then makes specific quota allocations to the individual commercial fishers who are free to fish their quotas anytime during the season. This allows the fishers to schedule their fishing to optimize market conditions, weather, or other business factors. The second main feature is that the specific proportion of the TAC given to each fisher is fixed and the fishers may transfer their quota share or license to other fishers to meet their business needs. This allows them to have some longer term business certainty and a more permanent stake in the overall management of the fishery. Individual quotas are generally fixed based on historical fishing patterns when the ITQ system is first initiated. Again, there may be gear, area, season, or size limit restrictions and catch reporting is required. ITQs are used for Lake Superior lake trout, and Lake Michigan and Green Bay yellow perch, lake whitefish, rainbow smelt, and bloater chubs (only part of the chub TAC is allocated to ITQs). Primary gears used in these fisheries are gill nets, trap nets, pound nets and trawls.

We have two other minor fishery types in Wisconsin: *Bycatch* – where commercial fishers are allowed to keep other species they catch incidental to another regulated fishery, and *Contract* – where commercial fishers are allowed to submit bids to be authorized to participate in specified fisheries. We currently have bycatch fisheries for forage species caught incidental to Lake Michigan/Green Bay smelt trawling, and for rough fish caught incidental to other Lake Michigan commercial fisheries. We currently have contract fisheries only to remove “detrimental” fish from selected inland waters when the Department determines such removals will benefit the game fisheries.

**Type of Issues** The Department will bring various issues relating to commercial fisheries to the Natural Resources Board for consideration. The most common will be:

*Total Allowable Catches* All TACs are set through administrative code by the Natural Resources Board and we try to adjust these TACs up or down based on the most recent information we have on the status of the fish populations. The Department will ask for a TAC reduction when it believes the number of fish being harvested by commercial fishers will hurt the fish population. There are times when factors other than commercial fishing may cause a fish population decline and in these cases, the Department may not request a TAC reduction. Conversely, if the Department believes a fish population can safely accommodate additional harvest we will ask that the TAC be increased. In setting TACs we attempt to follow the “precautionary approach” recommended by the National Research Council's Committee on Ecosystem Management for Sustainable Marine Fisheries. Attempting to maximize long-term harvests often leads to over exploitation, so our policy is to seek moderate harvest limits.

*Individual Quotas* Generally we rely on the Commercial Fishing Boards to review transfers of quotas between willing parties and to advise the Department regarding other allocations or reallocations of individual catch quotas. Because reallocation of individual catch quotas can undermine stability in a

fishery, the Department has not changed allocations except for transfers between willing parties. Occasionally, however, questions will arise concerning these quotas and their allocations among individual or zones.

*User conflicts* Many commercial fishing regulations are designed to minimize conflicts between commercial and sport fishers either keeping their gear physically separated on the water, or in allocating fish between the groups when both are fishing the same species. By their nature these conflicts are controversial and often end up being adjudicated by the Natural Resources Board and Legislature.

*Property Rights* Although the ITQ management system does confer some long term stability to the quota system, the title to the fish themselves and the authority to make appropriate management decisions remains with the State. To avoid inadvertently granting a prescriptive property right to state owned fish, we require that commercial fishers remain active in the fishery as demonstrated by equipment investments, annual license purchase, and annual evidence of fishing activity. The Commercial Fishing Boards are charged by statute with assisting the Department in identifying inactive licenses. Commercial fishers who do not wish to fish their individual quotas are given the option of transferring their quotas (this is usually done in exchange for some kind of financial consideration) temporarily or permanently. We try to adjust the criteria for identifying active fishers to meet changing conditions.

*Gear Restrictions* Wisconsin has a number of specific gear restrictions involving allowable gear types, marking requirements, mesh sizes, depth restrictions and seasons. There are often questions about and requests to change these requirements.

*Enforcement and Compliance* The Departments law enforcement and legal staff have the responsibility to enforce commercial fishing laws and have in some cases developed regulations to improve that process. The current FH-13-08 is an effort to improve enforcement and compliance while also streamlining and simplifying reporting and licensing requirements for commercial fishers.

## Some Wisconsin Commercial Fishing Statistics

Number of **Lake Michigan/Green Bay** commercial licenses: 62

Commercial species Lake Michigan/Green Bay and Current TACs:

- Yellow perch, Green Bay – 100,000 lbs
- Yellow perch, Lake Michigan – closed
- Lake Whitefish – 2.47 million lbs
- Bloater Chubs – 3.6 million lbs
- Menominee (round whitefish) – 75,000 lbs
- Rainbow Smelt – 1 million lbs
- Alewife – bycatch to smelt fishery
- Rough fish – bycatch to other fisheries

Wholesale value of Lake Michigan commercial harvest for the 2006-07 fishing year: \$3,873,280

Number of **Lake Superior** state commercial licenses: 10

Commercial species in Lake Superior and Current TACs:

- Lake Trout – 150,500 fish and gill net effort limit
- Lake Whitefish – no TAC but with trap net effort limit
- Cisco (lake herring) – no TAC or effort limit
- Rainbow Smelt – no TAC
- Bloater Chubs – no TAC
- Siscowet – no TAC

Wholesale value of Lake Superior commercial harvest for the 2006-07 fishing year: \$774,375

Number of **Mississippi River** licenses: 124 setliner licenses; 71 licensed for other gears;

Mississippi River commercial catch - 1,500,000 pounds

Commercial Species (no TACS set): channel catfish, flathead catfish, rough fish, shovelnose sturgeon

Value of Mississippi R. commercial fisheries: about \$400,000 to fishermen; retail value about \$1.2 million

### Sources of additional information

Lake Michigan Integrated Fisheries Plan ([http://dnr.wi.gov/fish/lakemich/LMIFMP\\_2003-2013.pdf](http://dnr.wi.gov/fish/lakemich/LMIFMP_2003-2013.pdf))

Lake Michigan Management Reports 2008 ([http://dnr.wi.gov/fish/lakemich/GLFC\\_Report\\_2008.pdf](http://dnr.wi.gov/fish/lakemich/GLFC_Report_2008.pdf))

library of Lake Michigan management reports (<http://dnr.wi.gov/fish/lakemich/managementreports.htm>)

library of Lake Superior management reports (<http://dnr.wi.gov/fish/lakesup/>)

Joint Strategic Plan for Management of Great Lakes Fisheries (<http://www.glf.org/fishmgmt/jsp97.pdf>)

Upper Mississippi River Conservation Committee (<http://www.mississippi-river.com/umrcc/>)